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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON
EUGENE DIVISION

LINDA LOVATO,

Plaintiff,

v.

ALMA MIX, LEBANON FAMILY CARE
HOME, LLC, MAPLE INN FAMILY CARE,
LLC, LAKEVIEW FAMILY CARE HOME,
LLC, and ALMA MIX INVESTMENTS, LLC

Defendants.

Civil No. 6:12-cv-1541

COMPLAINT

Jury trial demanded

JURISDICTION AND VENUE

1. This is a civil action for:

- A. Wages, liquidated damages, attorney fees and court costs under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 206, 207 and 216;
- B. Wages, penalty damages, attorney fees and court costs under and under Oregon law, ORS 652.140, 652.150, 652.200, 653.025, 653.261 and OAR 839-020-0030.

C. Wages, liquidated damages, reinstatement, attorney fees and court costs under anti-retaliation provisions of FLSA, 29 U.S.C. § 216.

D. The higher of actual damages or \$200 plus reasonable attorney fees for deducting pay from checks, and paying cash, without providing contemporaneous itemized statements of deductions, in violation of ORS 652.610 and 652.615.

2. Jurisdiction for federal claims is provided by 28 U.S.C. §§ 1331, 1332(e)(1), 1337, 1343(3) and (4) and, 2201 and 2202.

3. Jurisdiction over the supplemental state claims is provided by 28 U.S.C. § 1367.

4. All of the actions alleged in this complaint occurred in Linn County, Oregon.

5. Venue is appropriate in the United States District Court for the District of Oregon under 28 U.S.C. § 1391(b).

FIRST CLAIM

(FLSA – Wage Violations)

6. Plaintiff Linda Lovato (“Lovato”) repleads paragraphs 1-5.

7. Defendant Alma Mix (“Mix”) resides in Linn County, Oregon and operates three adult foster care homes, two in Lebanon and one Sweet Home, Oregon as an Oregon Department of Human Resources (“DHR”) licensee.

8. Lebanon Family Care Home, LLC, Maple Inn Family Care, LLC, Lakeview Family Care Home, LLC, and Alma Mix Investments, LLC are Mix’s single-member limited liability companies subject to her sole management and control.

9. Mix holds title to adult foster care homes in the name of defendant Alma Mix Investments, LLC, her own single-member LLC, subject to her sole management and control.

10. Adult foster care clients paid for their care with federal Medicare and

1 Medicaid funds and with private health insurance funds that moved in interstate
2 commerce.

3 11. Mix has full day-to-day operational control of the three adult foster
4 homes, including without limitation setting wages, hours and other employment terms,
5 hiring and firing, purchasing food and supplies, designating resident managers,
6 determining work schedules, assignment and reassignment of employees to one or
7 more the three homes, and directly supervising employees' work.

8 12. Defendants are all FSLA employers within the meaning of 29 U.S.C. §
9 203(d).

10 13. Defendants employed Lovato for eight years to provide direct care to
11 clients residing at her three adult foster homes.

12 14. Mix determined the days, weeks, shifts, and pay rate that Plaintiff
13 received.

14 15. Until quite recently, Mix assigned Lovato to work two twelve-hour shifts
15 per week at each of Mix's three adult foster homes.

16 16. Mix required Lovato to remain at the foster home between her two, 12-
17 hour shifts to respond to after-hour client needs.

18 17. Lovato's assigned duties and the absence of any co-workers required
19 to work in excess of 12-hours a day to fulfill complete her duties, for which time
20 defendants did not pay Lovato.

21 18. Defendants did not pay Lovato federal minimum wages for hours
22 worked, in violation of 29 U.S.C. §§ 206 and 207

23 19. Defendants did not pay Lovato time and a half for work in excess of 40
24 hours in a week, based on the "regular rate", which cannot be less than the Oregon
25 statutory minimum wage rate, in violation of 29 U.S.C. §§ 206 and 207.

26 20. As a result of these violations Defendants owes Lovato back wages in
27 an amount to be proved at trial in excess of \$20,000, entitling Lovato to economic
28 damages in that amount under 29 U.S.C. §§ 216.

21. Defendants' FLSA violations were wilful, entitling Lovato statutory liquidated damages in an amount to be proved at trial in excess of \$20,000, entitling Lovato to economic damages in that amount under 29 U.S.C. §§ 216.

22. Lovato incurred attorney fees and is entitled to an award or reasonable attorney fees and costs under 29 U.S.C. § 216 in an amount to be determined by the court.

SECOND CLAIM

(Oregon Wage Claims)

23. Plaintiff realleges paragraphs 6-17.

24. Defendants paid Lovato less than Oregon hourly minimum wage.

25. Defendants did not pay Lovato time and a half for hours worked in excess of 40 in a week.

26. Defendant's actions violated 652.200, 653.025 and 253.261 and Ore. Adm. Rul. 839-020-0030, entitling Lovato to unpaid state straight-time minimum wages of \$6,862.68, overtime wages of \$18,716.4, pre- and post-judgment interest at 9 percent plus reasonable attorneys fees and costs determined by the court.

ADD THIRD CLAIM FOR PAYROLL STUBS

PRAYER

LOH Wherefore, Plaintiff prays for judgment jointly and severally against defendants as follows:

1. On the First Claim \$36,264.40 plus reasonable attorneys fees and costs to be determined by the Court.

2. On the Second Claim \$23,972.20 plus reasonable attorneys fees and costs to be determined by the Court.

August 27, 2012

/s/ Paul B. Meadowbrook
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